TD/B/39(2)/8
TD/B/WG.3/5

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Report of the Ad Hoc Working Group on Comparative Experiences with Privatization on its first session

held at the Palais des Nations, Geneva,
from 30 November to 4 December 1992

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INTRODUCTION

1. The Ad Hoc Working Group on Comparative Experiences with Privatization, established in accordance with paragraph 79 of the Cartagena Commitment, held its first session at the Palais des Nations, Geneva, from 30 November to 4 December 1992*. In the course of the session, the Working Group held two plenary meetings.

Opening statements

2. The Deputy Secretary-General of UNCTAD, setting the Working Group in the context of the new orientations of UNCTAD, recalled that UNCTAD VIII had resulted in fundamental changes in methods of work while continuing to address the essential development themes. The in-depth analysis and exchange of experience of different countries should lead to the identification of problems and the appropriate solutions. Such analysis, experience and identification must of course lead to recommendations or guidelines addressed to Governments or other international organizations. The Cartagena Commitment had, as a fundamental tenet, the interdependence of national policies and the international development environment, and the key word in the Commitment was "partnership".

3. He recalled that the Ad Hoc Working Groups had been established by the Conference for a period of two years so that they could deal with issues of current importance. In the matter of privatization, the experiences of countries varied greatly. The note by the secretariat on this subject (TD/B/WG.3/2) raised a number of basic questions in a desire to stimulate discussion in the Working Group. However, it was for the delegations themselves to identify those issues on which they wished to concentrate their attention, particularly in the short time available. Among the questions and aspects which came to mind were the following: why privatize? What role does the State play in promoting a favourable environment for privatization? What experience had countries had with the techniques and financing of privitization? What were the legal aspects? And finally, what was the impact of privatization initiatives: did they attain their economic objectives and what were the social effects?

4. He hoped that the exchange of views could lead the Working Group to consider a plan or reference framework for privatization. He was well aware that national experiences were very diverse, as were the approaches adopted, but it could be useful to identify and study the basic stages in the process of privatization, whatever the individual circumstances might be. It would be interesting to consider the choice of enterprises for privatization, the support measures involved and the provisions made for the people affected. It might be possible for such work to lead to the elaboration of a strategy that would make it possible to deal with privatization in a less ad hoc manner. Moreover, such a framework would make it easier to evaluate the success of privatization initiatives. The secretariat could assist in the analytical

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* For the terms of reference of the Ad Hoc Working Group, see Trade and Development Board decision 398 (XXXVIII), annex C.

process but it would be for government representatives to draw the appropriate conclusions. In so doing, they would also need to consider what technical assistance might be provided by the secretariat.

5. The Chief of the Privatization and Enterprise Development Unit, Development Strategies Division, said that the issues paper (TD/B/WG.3/2) reflected the wide scope of the terms of reference of the Working Group. This Working Group was particularly suited to undertake a review and comparison of country experiences, in order to draw lessons and insights from the objectives pursued, the techniques used, the results achieved and particular problems encountered in the area of privatization in different parts of the world. In so doing, it could help to contribute to country efforts to achieve a more effective design and implementation of privatization programmes. Such comparisons could take the form of the preparation and presentation of country studies by national experts, as well as the presentation of privatization plans. They could be complemented by the in-depth consideration of particular practical topics or issues, with the aid of inputs provided by national and international experts, governmental and non-governmental actors.

6. The secretariat could prepare cross-country analyses and syntheses, drawing on the country studies and other sources. Thus the Working Group would serve as a forum for a mutually beneficial exchange of privatization experiences and results, while also addressing a number of practical problems and policy issues arising from country experiences with privatization, and discussing possible approaches or solutions to them, taking into account the diversity of country situations.

7. The representative of the United Nations Development Programme (UNDP) said that, if tangible results were to emerge from the brief two-year life-span of the Working Group, it would be necessary to be selective in approaching the wide range of topics outlined in the secretariat note. He therefore urged the Working Group to select those topics that were most relevant to the remit of UNCTAD in the area of trade and development. Finally, he commended the efforts that UNCTAD was making on the subject of privatization, which might well lead to useful results, especially if there were adequate cooperation with other organizations.

8. The representative of Tunisia said that many countries had experienced various problems in the implementation of privatization programmes. He suggested that the Working Group should give due attention to these difficulties in its work programme. Furthermore, he inquired about the format in which national experiences of individual countries would be presented to the Working Group.

9. The representative of Colombia said that the future work of the Working Group should be based on the experiences which countries had had with privatization. The issues note by the secretariat raised a number of substantive questions and provided a conceptual framework for the debate which should lead to a preliminary overview of the subject to be dealt with by the Working Group over the next two years. It was very important for the Working Group to begin to tackle these questions at the current session, and he hoped that the Group would as of now focus its efforts on the substantive rather than the organizational aspects of its work.

Chapter I

ESTABLISHMENT OF THE WORK PROGRAMME OF THE WORKING GROUP

(Agenda item 3)

10. For its consideration of this item, the Ad Hoc Working Group had before it the following document:

> "Issues for consideration in the establishment of the work programme" - note by the UNCTAD secretariat (TD/B/WG.3/2).

11. At its 1st plenary meeting, on 30 November 1992, the Working Group decided to discuss agenda item 3 in informal meetings.

Action by the Working Group

12. At its 2nd (closing) meeting, on 4 December 1992, the Working Group adopted the draft work programme submitted by the Chairman (TD/B/WG.3/L.2), with minor amendments. (For the work programme as adopted, see annex I below).

Concluding statements

13. The spokeswoman for the Group of 77 (Algeria) observed that the Working Group had adopted an interesting work programme that would inspire future sessions of the Group.

14. The representative of the United Kingdom, speaking on behalf of the European Community and its member States, said that the first session of the Working Group had been very constructive. All countries had had an opportunity to air their views and state what they saw as priorities for the Group. There was now a good basis for the future work programme and he felt sure that over its duration the Working Group could achieve some constructive proposals and conclusions.

15. The representative of Poland said that her delegation appreciated very much the useful exchanges of views and experience at the first session of the Working Group.

16. The representative of the Russian Federation associated himself with the views expressed by other delegations on the good work accomplished by the Working Group. The value of this work to countries in transition such as his own rested on the fact that they still had much to do in order to carry through their privatization programmes.

17. The representative of the United States of America commended the secretariat for its great flexibility and responsiveness. The United States felt privileged to participate in the important work of the Group in cooperation with other member countries.

18. The Deputy Secretary-General of UNCTAD expressed his appreciation to delegations for their presentations of national experiences and for the joint efforts that had led to the successful outcome of the first session of the

Working Group. He felt that the Working Group had laid down the basis of a network of people who would no doubt wish to meet again to examine their experiences in greater depth. The fact that UNCTAD had been able to give birth to a network of people involved in privatization was in itself a most useful contribution, and he was very pleased to see that Governments, experts and various international organizations had participated in this process.

19. The Chairman observed that the first session of the Working Group had been marked by a number of important achievements. To begin with, the 13 country presentations had provided a useful basis for an exchange of information on the approaches adopted, the methods used, the context in which privatizations had proceeded, the problems encountered and the policy issues raised in the privatization experiences in different parts of the world. The fact that presentations had come from a wide range of countries - Western industrial countries, countries in transition in East and Central Europe and developing countries at different levels of development - had furnished a diversity of experiences, enabled the Working Group to examine the problems of privatization from a number of perspectives, and enriched the lessons learned and the insights gained from the individual country experiences. He had been struck by the quality of the exchanges which had followed the country presentations, which showed the keen interest of experts to know more about each other's problems and to learn from each other's experiences. This augured well for the Working Group as a forum for a mutually-beneficial exchange of experiences and expertize in order to arrive at conclusions that could help the efforts of countries to improve the design and implementation of their privatization programmes. The agreement that the presentations should be issued in a single volume bore testimony to the excellent quality of the presentations and the wealth of information provided. Many delegations had also provided copies of their privatization plans and schemes. The experts would thus be leaving Geneva having gained deeper insights, made contacts and acquired a wealth of diverse material on privatization matters.

20. The discussion on the definition of privatization had pointed to the need for pragmatism. While privatization in the strict sense would involve the transfer of ownership (full or partial) or of management to the private sector, and thus imply a private sector involvement, it was also recognized that other forms of public enterprise reform, including marketization or commercialization, had been considered as forms of privatization. Furthermore, the particular situation of the countries in transition in Eastern and Central Europe and in the former Soviet Union would also have to be taken into account. Thus, it was felt that some flexibility might be necessary, provided that countries defined clearly what they themselves meant by privatization.

21. The discussion on the objectives and methods of privatization had raised some interesting issues. One of them was the relationship of privatization to the achievement of sustainable development. Another concerned the preparatory action that was needed. Some experts felt that macroeconomic reforms in order to create the right conditions were a prerequisite for successful privatization. In addition, reference had been made to the need to have a "business culture" in the economy. At the enterprise level, the Working Group had discussed the kind of preparatory action taken, including the writing off of debt, and the stipulation of employment conditions to be met after privatization. The important question of the valuation of assets prior to

sale had also come up. These and other aspects had evoked the possibility of conflicting objectives, for example, the possible conflict between trying to achieve a good price for the sale and trying to maintain unchanged employment conditions for a limited period after privatization; or again, the possible conflict between a quick sale of an asset and its correct valuation. There had been some discussion on how these conflicts might be addressed.

22. The question of the selection of enterprises for privatization, the treatment of money-making and non-profitable enterprises and the sequencing of their sales had also been discussed. Certain criteria had been mentioned in this regard: public interest versus efficiency, scale of the capital investment needed, and long-term profitability. The profitability criterion would need to be balanced against the importance of privatization as an instrument in stimulating and strengthening the forces of competition. Since the private sector could do better in this regard and since competitive conditions were a necessary tool for economic growth, State intervention might be justified only when the scale of investment was such that it could only be undertaken by the State or where there was an overriding strategic or public interest, or where there were wealth distribution problems. Even so, the State could regulate monopoly behaviour, hive off activities which could benefit from competition and take other measures to address social or wealth-distribution problems, including taxation, subsidies, etc. In this regard, the question had also been raised as to the relationship between competition and privatization, and to the manner in which one stimulated the other.

23. The function of the State had been discussed in relation to its supporting and guiding role for private sector development; its regulatory role, for the promotion of competition and for the restraining of monopoly behaviour; and its role in providing a social safety net. An interesting comment had been made that while the role of the State as an entrepreneur might be reduced, its role in the other aspects, as mentioned above, might be enhanced. Reference had also been made to how the proceeds of privatization might be used in the latter connection, for example to promote the development of small and medium-sized enterprises through the creation of a fund for that purpose, or to meet the additional costs of social safety net measures arising from past and future privatizations.

24. There had also been some discussion of privatization techniques in order to improve selling prices, and how they could be related to the investment plans of potential buyers. A clear policy statement on privatization objectives and a marketing strategy was needed in order to achieve labour acceptance and commitment to the privatized enterprises. The role of the planning of privatizations had been mentioned in this regard.

25. The financial constraints on the scale and pace of privatization had also been raised. Reference had been made, among other factors, to the lack of buyers, insufficient local capital or inadequate interest on the part of foreign investors. Some of the "development" constraints had been cited, including narrow and weak private sectors or a lack of a "corporate home" in certain countries. The current recession was also affecting the mood for privatization. Suggestions had been made regarding possible approaches to alleviating the financial constraints, including government assisted schemes

for funding privatization. The question had also been raised as to whether the mass privatization technique applied in the countries in transition in Eastern and Central Europe might also be applied to least developed countries.

26. Some information had also been provided on the results of privatizations, in terms of the proceeds and their uses. Some had reported on the technical efficiency of privatized firms. In a few cases, examples had been cited of lower costs occurring after privatization. A fundamental question was the extent to which cost reductions had led to lower prices and thus to benefits for consumers.

27. He felt that the Working Group had benefited greatly from the presence of so many experts from the capitals - some 25 of them - which was an achievement in itself. The contacts made by them during the session had undoubtedly proved useful, and would probably continue to be so. A positive by-product of this meeting was the agreement to set up a network of national focal points dealing with privatization matters, to be backstopped by the UNCTAD secretariat. This would no doubt have great practical value and would serve as a mechanism for the development and promotion of exchanges among members of the network. Members of the network could also contact one another when they had problems to solve or information to seek. He also expressed his appreciation to the representatives of other international organizations and the non-governmental bodies who briefed the Working Group on their activities and experience in privatization. He hoped they would continue to feel that they were partners in this exercise and that the Working Group could count on them when it needed inputs in areas where they had a particular expertise and experience. The Working Group had also asked the UNCTAD secretariat to do a synopsis of the activities of other United Nations agencies and international organizations that were active in the field of privatization, as well as to compile a list of the main documents and reports dealing with privatization matters, together with a summary of their contents. He was sure that they would extend their full cooperation to the UNCTAD secretariat in these tasks.

Chapter II

ORGANIZATIONAL MATTERS

A. Opening of the session

28. The first session of the Ad Hoc Working Group was opened on 30 November 1992 by the Deputy Secretary-General of UNCTAD, who made an introductory statement (see paras. 2-4).

B. Election of officers

(Agenda item 1)

29. At its 1st meeting, on 30 November 1992, the Ad Hoc Working Group elected its officers as follows:*

Chairman:	Mr. Bror Wahlroos	(Finland)
Vice-Chairmen:	Ms. Taous Feroukhi	(Algeria)
	Mr. Ricardo Avila	(Colombia)
	Mr. Thomas Janicki	(Germany)
	Ms. Urszula Calka-Jendroszczyk	(Poland)
	Ms. Panada Thurkhao	(Thailand)
Rapporteur:	Mr. Herbert Dzvimbo	(Zimbabwe).

C. Adoption of the agenda and organization of work

(Agenda item 2)

30. At the same meeting, the Working Group adopted the provisional agenda circulated by the UNCTAD secretariat (TD/B/WG.3/1). The agenda for the first session therefore reads as follows:

1. Election of officers
2. Adoption of the agenda and organization of work
3. Establishment of the work programme of the Working Group
4. Provisional agenda for the second session of the Working Group
5. Other business
6. Adoption of the report of the Working Group to the Board.

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* In accordance with the decision taken by the Trade and Development Board at the first part of its thirty-ninth session, the officers elected at the first session of the Ad Hoc Working Group are to remain in office for the duration of the life of the Working Group.

D. Provisional agenda for the second session of the Working Group

(Agenda item 4)

31. At its 2nd (closing) meeting, on 4 December 1992, the Working Group adopted the draft provisional agenda for its second session (TD/B/WG.3/L.3), with one amendment. (For the provisional agenda as adopted, see annex II.)

E. Other business

(Agenda item 5)

32. At the same meeting, the Chief of the Privatization and Enterprise Development Unit, responding to questions on how presentations of national experiences should be conveyed to the secretariat, said that country contributions should reach the secretariat by mid-March 1993 so that they could be processed in time for the second session of the Working Group, which was scheduled for June 1993. A revised outline for the format of such contributions would be communicated shortly to participants. He added that such contributions would of course be submitted on a voluntary basis, and it would help the secretariat if countries could already make known their intentions in this regard.

33. The spokeswoman for the Group of 77 (Algeria) said that the outline referred to above should be sent to all participating countries, irrespective of their declared intentions.

F. Adoption of the report of the Working Group to the Board

(Agenda item 6)

34. Also at its closing meeting, the Working Group adopted the draft report on its first session (TD/B/WG.3/L.1) and authorized the Rapporteur to complete the final report as appropriate.

ANNEXES

Annex I

WORK PROGRAMME ON COMPARATIVE EXPERIENCES WITH PRIVATIZATION*

1. Pursuant to a New Partnership for Development: the Cartagena Commitment, adopted at the eighth session of the Conference, the Ad Hoc Working Group agreed, on the basis of Board decision 398 (XXXVIII), which sets out in Annex B the terms of reference of the Ad Hoc Working Group on Comparative Experiences with Privatization, the following work programme.

A. Design, implementation and outcome of privatization programmes

1. On the basis of country presentations and cross-country analyses by the secretariat, the Ad Hoc Working Group will undertake an analysis of comparative experiences with respect to the design, implementation and results of privatization programmes, taking into account the diversity of country situations.

2. In particular, the Ad Hoc Working Group will consider:

I. Objectives

(a) Factors and reasons influencing decisions to privatize;

(b) Objectives of privatization;

II. Macroeconomic considerations

(c) The macroeconomic framework for privatization;

III. The role of the State

(d) Share of the public sector in the economy;

(e) Institutional arrangements; human resource development;

(f) Competition and regulation of privatized monopolies;

IV. Technical, legal, financial and other aspects

(g) Legal aspects;

(h) Selection of enterprises for privatization; pace and sequencing of their privatization;

(i) Techniques for privatization;

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* Adopted by the Ad Hoc Working Group at its 2nd (closing) meeting, on 4 December 1992.

(j) Financing of privatization, including the role of foreign investment, international agencies and bilateral donors;

(k) Environmental aspects;

V. Social impact

(l) Social impact and socially related support measures;

VI. Results of privatization

(m) Results of privatization and their assessment, including the main problems faced by the countries concerned.

3. In the light of its work, the Ad Hoc Working Group will elaborate basic elements for consideration in formulating privatization programmes and plans.

B. Organization of work

B.1 Country presentations

4. Voluntary country presentations will be invited from a representative sample of countries in terms of their country situations and levels of development and the extent of their experience with privatization, on the basis of an outline to be provided by the secretariat.

B.2 Contributions by the secretariat and other international bodies

5. The secretariat will compile a list of the main publications and national legal materials relevant to the work of the Ad Hoc Working Group. The secretariat will prepare and circulate a list of national focal points dealing with privatization in order to facilitate exchanges among them, including the exchange of legal materials and other guidelines.

6. The secretariat will provide to countries, at their request, technical assistance, advice and information in this area within the available resources. In this connection, the special situation of the least developed countries will be taken into account.

7. Drawing on the country presentations and other studies, the secretariat will prepare cross-country analyses and summarize the main findings in relation to the issues mentioned in paragraph 2.

8. Presentations will be sought from other international organizations in areas where they have a particular expertise.

B.3 Topics for future sessions

9. The Ad Hoc Working Group agrees on the following topics to be discussed at the forthcoming sessions:

Second session - Review of country presentations in the light of a cross-country analysis by the secretariat on the design, implementation and results of privatization programmes;

- In-depth consideration of:

  (i) Techniques for privatization;

  (ii) Financing of privatization, including the role of foreign investment, international agencies and bilateral donors.

Third session - Review of country presentations in the light of a cross-country analysis by the secretariat on the design, implementation and results of privatization programmes;

- In-depth consideration of:

  (i) Competition and the regulation of privatized monopolies;

  (ii) Social impact and socially related support measures.

Fourth session - Elaboration of basic elements for consideration in formulating privatization programmes and plans;

- Other issues (to be determined).

C. Dissemination of the reports of the Ad Hoc Working Group

10. The reports of each session of the Ad Hoc Working Group will be given the widest possible dissemination.

D. Strengthening technical cooperation

11. In carrying out the above activities, the Working Group will identify areas where technical cooperation should be strengthened.

Annex II

PROVISIONAL AGENDA FOR THE SECOND SESSION OF THE AD HOC WORKING GROUP*

1. Election of officers

2. Adoption of the agenda and organization of work

3. Review of country presentations in the light of a cross-country analysis by the secretariat on the design, implementation and results of privatization programmes

4. In-depth consideration of:

   (i) Techniques for privatization;

   (ii) Financing of privatization, including the role of foreign investment, international agencies and bilateral donors

5. Provisional agenda for the third session of the Ad Hoc Working Group

6. Other business

7. Adoption of the report of the Ad Hoc Working Group to the Board

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* As approved by the Ad Hoc Working Group at its 2nd (closing) meeting, on 4 December 1992.

Annex III

MEMBERSHIP AND ATTENDANCE*

The following States members of UNCTAD, members of the Ad Hoc Working Group, were represented at the session:

Algeria
Argentina
Belgium
Chile
China
Colombia
Côte d'Ivoire
Cuba
Czechoslovakia
Democratic People's Republic of Korea
Denmark
Egypt
Finland
France
Germany
Greece
Hungary
Iran (Islamic Republic of)
Iraq
Japan
Lebanon
Libyan Arab Jamahiriya
Malaysia
Mexico
Morocco
Myanmar
Netherlands
Nigeria
Norway
Poland
Portugal
Republic of Korea
Romania
Russian Federation
Saudi Arabia
Senegal
Sri Lanka
Thailand
Tunisia
Turkey
United Kingdom of Great Britain and Northern Ireland
United States of America
Zambia
Zimbabwe

The following other States members of UNCTAD, not members of the Ad Hoc Working Group, were represented as observers at the session:

Afghanistan
Australia
Austria
Bhutan
Bulgaria
Canada
Ecuador
El Salvador
Ethiopia
India
Indonesia
Ireland
Italy
Italy
Jordan
Madagascar
Nepal
Niger
Panama
Peru
Philippines
Qatar
Sweden
Syrian Arab Republic
United Republic of Tanzania
Viet Nam

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* For the list of participants, see TD/B/WG.3/INF.1.

The Economic Commission for Europe and the United Nations Development Programme were represented at the session. The International Trade Centre UNCTAD/GATT was also represented at the session.

The following specialized agencies were represented at the session:

International Labour Organisation
World Bank
International Monetary Fund
International Telecommunications Union
World Intellectual Property Organization.

The following intergovernmental organizations were represented at the session:

Commonwealth Secretariat
European Economic Community
Organization for Economic Co-operation and Development
Organization of African Unity.

The following non-governmental organizations were represented at the session:

General Category

International Chamber of Commerce
International Confederation of Free Trade Unions
International Co-operative Alliance
International Council of Voluntary Agencies
International Organization of Employers
World Confederation of Labour
World Federation of United Nations Associations.

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Printed at United Nations, Geneva
GE.93-55125–February 1993–3,590

United Nations publication